

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEREDITH BUSHER and ELLEN BUSHER as Co-
Personal Representatives of the Estate of EUGENE L.
BUSHER, and NANCY TUMPOSKY,

Plaintiffs,

v.

DESMOND T. BARRY, JR., THOMAS T. EGAN,
JOHN P. HEANUE, WILLIAM M. KELLY,
FRANCIS P. BARRON, and WINGED FOOT GOLF
CLUB, INC.,

Defendants.

WINGED FOOT HOLDING CORPORATION,

Nominal Defendant.

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14 Civ. 4322 (NSR) (JCM)

[PROPOSED] PRELIMINARY
ORDER FOR VOLUNTARY
DISMISSAL OF CLAIMS
UNDER RULE 41(a)(2) AND
NOTICE TO SHAREHOLDERS
UNDER RULE 23.1

WHEREAS, the captioned plaintiffs ("Plaintiffs") have moved, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, to voluntarily dismiss their derivative claims relating to the lease between Winged Foot Holding Corporation and Winged Foot Golf Club (the "Lease") for the period 2050-2071 (the "Remaining Claims"); and

WHEREAS, Plaintiffs' derivative claims relating to the Lease for the periods 1987-2008, 2008-2029, and 2029-2050 were previously dismissed by the Court's order dated March 12, 2019 (dkt. 227, at 13, 22), as clarified by the Court's orders dated October 2 and December 18, 2019 (dkt. 244, at 2, 4-5; dkt. 329, at 31-33); and

WHEREAS, Plaintiffs' claim for equitable dissolution of the Winged Foot Holding Corporation was dismissed by the Court's order dated December 18, 2019 (dkt. 329, at 45); and

WHEREAS, no other claims were alleged by Plaintiffs;

IT IS THEREFORE ORDERED that:

1. Subject to notice being provided to shareholders of the Winged Foot Holding Corporation in accord with a plan of notice to be approved by the Court pursuant to Rule 23.1(c) of the Federal Rules of Civil Procedure, Plaintiffs' Remaining Claims shall be dismissed with prejudice under Rule 41(a)(2) of the Federal Rules of Civil Procedure and a final judgment thereupon shall be entered.

2. Each party to this action shall bear its own costs, disbursements, attorneys' fees, and expenses.

SO ORDERED.



Nelson S. Román, U.S.D.J.

DATED: January 2, 2020
White Plains, NY